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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,440	01/23/2002	Todd Bolzer	32183	7938
7590 08/05/2004 Hovey, WILLIAMS, TIMMONS & COLLINS Suite 400 2405 Grand Blvd Kansas City, MI 64108			EXAMINER CASTELLANO, STEPHEN J	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,440

Applicant(s)

BOLZER ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the catalog of AK Industries, Inc. (the AKI catalog).

The AKI catalog discloses a subterranean tank assembly for storing liquid below grade, the tanks comprising a vessel, a cover and a riser, page 12 provides a pictorial representation of a pump tank which shows the vessel, cover and riser connected together, various risers and lids are disclosed on page 7, the vessel, cover and riser are made of a synthetic resin material, specifically, polyethylene, the riser includes an inner cylindrical riser wall, axially spaced, circumscribing ribs spaced outwardly of the riser wall, the ribs including a pair of substantially horizontal flanges.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the AKI catalog in view of Jones and Hall.

The AKI catalog discloses a subterranean tank assembly for storing liquid below grade, the tanks comprising a vessel, a cover and a riser, page 12 provides a pictorial representation of a pump tank which shows the vessel, cover and riser connected together, various risers and lids are

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disclosed on page 7, the vessel, cover and riser are made of a synthetic resin material, specifically, polyethylene, the riser includes an inner cylindrical riser wall, axially spaced, circumscribing ribs spaced outwardly of the riser wall, the ribs including a pair of substantially horizontal flanges. The vessel has a portal (access hole - see Fig. 1 in top right corner of page 6, also large opening has depicted at right side of page 6 is believed to be similar) projecting generally upwardly from the vessel wall, the portal includes a rim having a substantially horizontal circumferentially extending closure surface in surrounding relationship to a portal opening. The riser is best depicted on page 12 as being connected to the access opening and the cross section is shown in the top right figure on page 7.

The AKI catalog discloses the invention except for an inwardly tapering receiving surface on the portal rim of the vessel and an inwardly tapering complementary surface on the bottommost connector portion of the riser.

Jones teaches a sewer construction wherein the vessel is a tee fitting 16 having a bifurcated foot 34b situated at its top with a top portal rim (spigot 34c) and the riser is a bottom section (pipe encasement 36) with a bottommost connector (bell socket 36b). The rim includes a horizontal surface and an inwardly tapering receiving surface and the bottommost connector includes an inwardly tapering complementary surface mating with the receiving surface of the rim of the vessel.

Hall teaches a manhole structure wherein the vessel is manhole substructure 10 having a top ring 11 with a top portal rim and the riser is a bottom section (bottommost plastic extender ring 15) with a bottommost connector. The rim includes a horizontal surface and an inwardly

tapering receiving surface and the bottommost connector includes an inwardly tapering complementary surface mating with the receiving surface of the rim of the vessel.

It would have been obvious to modify the configuration of the riser to vessel connection to include both a horizontal surface on the vessel rim and inwardly tapering surfaces to provide an aligning fit to ensure that the riser is properly centered and to ensure that the top of the riser is situated horizontally.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the AKI catalog in view of Jones and Hall as applied to claim 1 above, and further in view of Wittenberg.

The combination discloses the invention except for the lug on the cover and the recess on the vessel rim. Wittenberg teaches in the Fig. 1-10 a cover that includes an interior wall surface having a least one lug oriented substantially radially inwardly and a vessel rim that includes an outer wall surface having at least one recess configured to receive the lug. It would have been obvious to add the lug and recess arrangement in order to provide a securing means that includes more than one direction of motion to both attach and remove the closure so that the closure isn't removed, inadvertently.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the AKI catalog in view of Jones and Hall as applied to claim 1 above, and further in view of Wittenberg and Seizert et al. (Seizert).

The AKI catalog discloses the invention except for the seal and the slot in the rim for receiving the seal. Wittenberg teaches in the Fig. 12 embodiment a circumferentially extending elastomeric seal 53 that is situated within a circumferentially extending slot on the rim. Seizert teaches a seal (44, 144, 244, 444) and a slot (22, 122, 222, 422), respectively. It would have

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been obvious to add the seal and slot arrangement to the rim in order to form a liquid tight seal with either a cover or another pipe connected to the vessel at the rim to prevent a liquid leak at this joint.

Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc